#### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Confirmation No. 9944
CHOO et al.	)	Group Art Unit: 1648
Serial No.: 10/580,050	)	Examiner: TBA
I.A. Filed: November 19, 2004	)	Atty. Docket No. 51835-US-PCT

For: METHODS AND REAGENTS FOR TREATING, PREVENTING, AND DIAGNOSING BUNYAVIRUS INFECTION

# PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

U.S. Patent and Trademark Office Randolph Building 401 Dulany Street Alexandria, VA 22314

Dear Sir:

Applicants petition the Director under 37 C.F.R. § 1.181 to withdraw the holding of abandonment of the application referenced above as set forth in the Notification of Abandonment mailed May 14, 2009. Applicants believe no fee is due in connection with this petition. If a fee is due, please charge our Deposit Account No. 19-0733.

#### **Statement of Facts**

- 1. The present application (Serial No. 10/580,050) is a national phase application of PCT/US2004/039333 filed November 19, 2004. Serial No. 10/580,050 was filed by express mail on May 19, 2006.
- 2. A Notification of Missing Requirements requesting an executed declaration was mailed on January 16, 2007. The executed declaration was filed by express mail on August 10, 2007 together with payment for a five-month extension of time.
- 3. On January 31, 2008 Applicants filed by express mail a preliminary amendment and paper and computer readable forms of a sequence listing. The preliminary amendment inserted sequence identifiers into the specification and directed entry of the paper copy of the sequence listing into the specification. Exhibit 1 is a copy of Applicants' sequence listing transmittal letter downloaded from PAIR. The transmittal letter bears a U.S. Patent and Trademark Office receipt stamp of January 31, 2008.
- 4. Exhibit 2 is a copy of a SCORE placeholder sheet for IFW content downloaded from PAIR. The placeholder sheet is dated January 31, 2008 and indicates receipt of the computer readable form of the sequence listing.
- 5. Exhibit 3 is a printout of PAIR's "Supplemental Content" view for this application.
- 6. Exhibit 4 is a copy of the contents of the sequence listing downloaded from the Supplemental Content. tab in PAIR
- 7. A Notice to Comply with sequence listing requirements was mailed on February 18, 2009. The notice asserted that a computer readable form of the sequence listing had not been submitted. The Notice provided a two-month initial deadline to respond (*i.e.*, until April 18,

2009). The Notice also indicated that extensions of time were available under 37 C.F.R. § 1.136 up to six months from the mailing date of the notice (*i.e.*, until August 18, 2009).

- 8. On March 20, 2009 Applicants filed by express mail a response to the Notice to Comply. The response noted that the computer readable form of the sequence listing had been filed on January 31, 2008. The response also stated that copies of the sequence listing and preliminary amendment filed on January 31, 2008 were being resubmitted; however, PAIR does not indicate that the sequence listing and preliminary amendment were re-submitted with the response.
- 9. A Notification of Abandonment was mailed on May 14, 2009, less than one month after the initial deadline for responding to the Notice to Comply. The Notification states that the application is abandoned because "[t]he sequence requirements still haven't been met."

#### Point to be Reviewed

The point to be reviewed is whether the holding of abandonment should be withdrawn because the computer readable form of the sequence listing was filed on January 31, 2008.

#### **Action Requested**

Applicant requests that the holding of abandonment of this application be withdrawn.

Argument

The Notification of Abandonment appears to have been issued in error. As an initial

matter, the Notification of Abandonment was mailed before the end of the statutory period for

responding to the Notice to Comply.

Moreover, the Notice to Comply itself was erroneously issued. First, the U.S. Patent and

Trademark Office's own records indicate that the computer readable form of the sequence listing

was filed on January 31, 2008 (Exhibit 2). Second, the computer readable form of the sequence

listing actually is present under the "Supplemental Content" tab for this application in PAIR

(Exhibits 3 and 4). Third, the contents of the computer readable form downloaded from PAIR

appears to contain all 191 sequences present in the paper form of the sequence listing filed on

January 31, 2008 (Exhibit 4).

Applicants respectfully request that the holding of abandonment of this application be

withdrawn.

Respectfully submitted,

**BANNER & WITCOFF, LTD.** 

/Lisa M. Hemmendinger/

Date: May 27, 2009

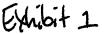
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By:\_ Lisa M. Hemmendinger

Registration No. 42,653

## IAPU/HEC' O PCI 31 JAN 2008

PATENT APPLICATION U.S. Appln. No. 10/580,050 International Application No. PCT/US04/39333 Attorney Docket No. PP021454.0004



Express Mail Label No.: ED 954551195 US Date: January 31, 2008

### IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

In Re Application of: Qui-Lim Choo

U.S. Appln. No.: 10/580,050

Intl. Appln. No.: PCT/US04/39333

I.A. Filing Date: 11/19/2004

Priority Date: 11/19/2003

Title: METHODS AND REAGENTS FOR

TREATING, PREVENTING AND DIAGNOSING BUNYAVIRUS

INFECTION

Confirmation No.: 7391

Group Art Unit: To Be Assigned

Examiner: To Be Assigned

### TRANSMITTAL LETTER

Mail Stop PCT Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

Enclosed herewith are the following documents to complete the above-identified application:

#### 1. TRANSMITTAL OF SEQUENCE LISTING INCLUDING:

- a. Statements Under 37 C.F.R. 1.821(f-g), including statement specifically directing entry of the sequence listing into the application.
- b. Paper Copy of the Sequence Listing (60 pages).
- c. Compact Disk Containing CRF Copy of Sequence Listing (1 CD).

#### 2. PRELIMINARY AMENDMENT.

3. RETURN RECEIPT POSTCARD.

PATENT APPLICATION U.S. Appln. No. 10/580,050 International Application No. PCT/US04/39333 Attorney Docket No. PP021454.0004

The Commissioner is hereby authorized to charge any deficiency in fees or credit any overpayment associated with this communication and which may be required under 37 C.F.R. §§ 1.16 and 1.17 to Deposit Account No. 03-1664.

Respectfully submitted,

NOVARTIS VACCINES AND DIAGNOSTICS, INC.

Dated: 9/mory 31, 2008

By: 7/ C

Helen Lee

Registration No. 39,270

Customer No. 27476

NOVARTIS VACCINES AND DIAGNOSTICS, INC.

Corporate Intellectual Property – R338

P.O. Box 8097

Emeryville, CA 94662-8097 Telephone: (510) 923-2192 Facsimile: (510) 655-3542

Exhibit 2

DocCode - SEQ.TXT

## **SCORE Placeholder Sheet for IFW Content**

Application Number: 10580050 Document Date: 01/31/2008

The presence of this form in the IFW record indicates that the following document type was received in electronic format on the date identified above. This content is stored in the SCORE database.

## Sequence Listing

Since this was an electronic submission, there is no physical artifact folder, no artifact folder is recorded in PALM, and no paper documents or physical media exist. The TIFF images in the IFW record were created from the original documents that are stored in SCORE.

To access the documents in the SCORE database, refer to instructions developed by SIRA.

At the time of document entry (noted above):

- Examiners may access SCORE content via the eDAN interface.
- Other USPTO employees can bookmark the current SCORE URL (http://es/ScoreAccessWeb/).
- External customers may access SCORE content via the Public and Private PAIR interfaces.

Form Revision Date: February 8, 2006



Exhibit 3

Portal Home | Patents | Trademarks | Other | Sign-Off Authenticated Session

Patent eBusiness - 0 **Secured Patent Application Information Retrieval** Electronic Filing Order Certified Application As Filed Order Certified File Wrapper Patent Application Information (PAIR) Methods and reagents for treating, preventing and diagnosing Patent Ownership 10/580,050 F + Fees bunyavirus infection Supplemental Resources & Support Continuity Select New Case Application Transaction Supplemental Content Display References Image File Address & Data History Data Wrapper Attorney/Agent **Patent Information** Supplemental Content - Sequences Patent Guidance and General Info Use this page to view or retrieve a specific version of the Sequence Listing submitted for this Codes, Rules & Manuals application. Employee & Office Directories Previous Resources & Public Notices **Sub-Version Item Size** Number of Sequence **Patent Searches** Version Sequences Name **Item ID** Patent Official Gazette 0 US10580050 91.293 09323b6780b376d2 **Search Patents & Applications** 

# Copies, Products & Services Other

**Bearch Biological Sequences** 

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Trademarks
Policy & Law
Reports

If you need help:

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail <u>EBC@uspto.gov</u> for specific questions about Patent Application Information Retrieval (PAIR).
- Send general questions about USPTO programs to the USPTO Contact Center (UCC).
- If you experience technical difficulties or problems with this application, please report them via e-mail to Electronic Business Support or call 1 800-786-9199.

You can suggest USPTO webpages or material you would like featured on this section by E-mail to the <a href="webmaster@uspto.qov">webmaster@uspto.qov</a>. While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.

#### SEQUENCE LISTING

- <110> CHOO, Qui-Lim HOUGHTON, Michael SCOTT, Elizabeth WEINER, Amy
- $<\!120\!>\,$  METHODS AND REAGENTS FOR TREATING, PREVENTING AND DIAGNOSING BUNYAVIRUS INFECTION
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Tyr Arg Asn Asp Val Pro Phe Val Asp Ile Ile Leu Asp Ile Arg Pro
Glu Val Asp Pro Leu Thr Ile Asp Ala Pro His Ile Thr Pro Asp Asn
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Val Ser Asn Glu Ser Ser Val Ile Thr Tyr Asp Lys Tyr Tyr Glu Leu
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Ala	Leu 1625	Val	Leu	Arg	Ala	Tyr 1630	Ser	Lys	Asn	Asn	Pro 1635	Asp	Ile	Gln
Gly	Ala 1640	_	Pro	Thr	Glu	Met 1645	Ala	Arg	Asp	Leu	Val 1650	His	Leu	Lys
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Asp	Lys 1835	Tyr	Asp	Ala	Met	Lys 1840	Ser	His	Glu	Arg	Val 1845	Thr	Trp	Asn
Asp	Trp 1850	Gln	Thr	Ser	Arg	His 1855	Leu	Asp	Met	Gly	Ser 1860	Ile	Asn	Leu
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Gly	Leu 1910	Lys	Phe	Glu	Asn	Met 1915	Ser	Lys	Ile	Gln	Thr 1920	Tyr	Pro	Gly
Asn	Tyr 1925	Tyr	Ile	Thr	Tyr	Arg 1930	Lys	Lys	Asp	Arg	His 1935	Gln	Phe	Val
Tyr	Gln 1940	Ile	His	Ser	His	Glu 1945	Ser	Ile	Thr	Arg	Arg 1950	Asn	Glu	Glu
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Cys	Val 1970	Val	Asn	Val	Ala	Glu 1975	Val	Asp	Gly	Asp	Gln 1980	Arg	Ile	Leu
Ile	Arg 1985	Ser	Leu	Asp	Tyr	Leu 1990	Asn	Asn	Asp	Ile	Phe 1995	Ser	Leu	Ser
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Gly	Leu 2030	Leu	Asp	Leu	Thr	Glu 2035	Leu	Met	Lys	Ser	Gln 2040	Asp	Leu	Leu
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His	Gly	Asp 115	Phe	Thr	Asn	Lys	Cys 120	Arg	Gln	Cys	Thr	Cys 125	Gly	Gln	Tyr		

Glu Asp Ala Ala Gly Leu Met Ala His Arg Lys Thr Tyr Asn Cys Leu 130 135 140

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Ala Ile Ser Val Leu Asp Val Pro Ile Ile Thr Gly Ile Pro Asp Asp 50 55 60

Ile Ala Gly Ala Leu Arg Tyr Ile Glu Glu Lys Glu Asp Phe His Val 65 70 75 80

Gln Leu Thr Ile Glu Tyr Ala Met Leu Ser Lys Tyr Cys Asp Tyr Tyr 85 90 95

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115 120 125

His Phe Cys Arg Cys Val Lys Asn Gly Glu Lys Cys Ser Ser Ser Asn 130 135 140

Trp Asp Phe Ala Asn Glu Met Lys Asp Tyr Tyr Ser Gly Lys Gln Thr 145 150 155 160

Lys Phe Asp Lys Asp Leu Asn Leu Ala Leu Thr Ala Leu His His Ala 165 170 175

Phe Arg Gly Thr Ser Ser Ala Tyr Ile Ala Thr Met Leu Ser Lys Lys 180 185 190

Ser Asn Asp Asp Leu Ile Ala Tyr Thr Asn Lys Ile Lys Thr Lys Phe 195 200 205

Pro Gly Asn Ala Leu Leu Lys Ala Ile Ile Asp Tyr Ile Ala Tyr Met

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Lys Thr Trp Met Cys Arg Val Arg Asp Glu Gly Leu Gln Val Ile Leu 900 905 910

Glu Pro Phe Lys Asn Leu Phe Gly Ser Tyr Ile Gly Ile Phe Tyr Thr 915 920 925

Phe Ile Ile Ser Ile Val Val Leu Leu Val Ile Ile Tyr Val Leu Leu 930 935 940

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35 40 45

Val Ser Gln Arg Gly Arg Leu Thr Leu Asn Leu Glu Ser Gly Arg Trp 50 55 60

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